

3032.32 Be paid to a lender not related through control or ownership, or personal relationship to the borrowing organization.

3032.4 Refinancing. Any refinancing of property mortgages or loans on fixed assets must be prior approved by the Department. If prior approval is not obtained any additional interest costs or finance changes will not be allowed.

3033 Borrower-lender relationship

3033.1 To be allowable, interest expense must be incurred on indebtedness established with lenders or lending organizations not related through control, ownership, or personal relationship to the borrower. Presence of any of these factors could affect the "bargaining" process that usually accompanies the making of a loan, and could thus be suggestive of an agreement on higher rates of interest or of unnecessary loans. Loans should be made under terms and conditions that a prudent borrower would make in arm's-length transactions with lending institutions. The intent of this provision is to assure that loans are legitimate and needed, and that the interest rate is reasonable. Thus, interest paid by the provider to partners, stockholders, or related organizations of the provider would not be allowable. However, interest on first or second mortgages held by stockholders, owners, relatives or related organizations of the provider, will be treated as an allowable cost if in line with the interest rates charged by lending institutions at the inception of the loan. Where the owner uses his own funds in a business, it is reasonable to treat the funds as invested funds or capital, rather than borrowed funds. Therefore, where interest on loans by partners, stockholders, or related organizations is disallowed as a cost solely because of the relationship factor, the principal of such loans shall be treated as invested funds in the computation of the provider's equity capital.

3033.2 Exceptions to the general rule regarding interest on loans from controlled sources of funds are made in the following circumstances. Where the general fund of a provider borrows from a donor-restricted fund and pays interest to the restricted fund, this interest expense is an allowable cost. The same treatment is accorded interest paid by the general fund on money borrowed from the funded depreciation account of the provider. In addition, if a provider of a facility operated by members of a religious order borrows from the order, interest paid to the order is an allowable cost.

3033.3 Where funded depreciation is used for purposes other than improvement, replacement, or expansion of facilities or equipment related to patient care, allowable interest expense is reduced to adjust for offsets not made in prior years for earnings on funded depreciation.

- 3034 Loans not reasonably related to patient care. Loans made to finance that portion of the cost of acquisition of a facility that exceeds historical cost, are not considered to be for a purpose reasonably related to patient care.
- 3035 Interest expense of related organizations. Where a provider leases facilities from a related organization and the rental expense paid to the related organization is not allowable as a cost, costs of ownership of the leased facility are allowable costs of the provider.. Therefore, in such cases, mortgage interest paid by the related organization is allowable as an interest cost to the provider.
- 3036 Interest on Property Taxes. Interest charged by a municipality for late payment of property taxes is an allowable cost when the following conditions have been met:
- 3036.1 The rate of interest charged by the municipality is less than the interest which a prudent borrower would have had to pay in the money market existing at the time the loan was made;
  - 3036.2 The payment of property taxes is deferred under an arrangement acceptable to the municipality.
  - 3036.3 The late payment of property taxes results from the financial needs of the provider and ,does not result in excess funds; and
  - 3036.4 Approval in writing has been given by the Department prior to the time period in which the interest is incurred. Any requests for prior approval must be received by the Department at least two weeks prior to the desired effective date of the approval.
- 3037 Limitation on the participation of capital expenditures. Interest is not allowable with respect to any capital expenditure in plant, property, and equipment related to patient care, which has not been submitted to the designated planning agency as required, or has been determined to be inconsistent with health facility planning requirements.
- 3040 Return on Equity Capital of Proprietary Providers.
- 3041 Principle. A reasonable return on equity capital invested and used in the provision of patient care is allowable as an element of the reasonable cost of covered services furnished to beneficiaries by proprietary providers. The amount on an annual basis is ten percent (10%).
  - 3042 For the purposes of this subpart, the term "proprietary providers" is intended to distinguish providers, whether sole proprietorships, partnerships, or corporations, that are organized and operated with the expectation of earning profit for the owners, from other providers that are organized and operated on a nonprofit basis.
  - 3043 For purposes of computing the allowable return, the provider's equity capital means;

- 3043.1 The provider's investment in plant, property and equipment related to patient care (net of depreciation) and funds deposited by a provider who leases plant, property, or equipment related to patient care and is required by the terms of the lease to deposit such funds (net of noncurrent debt related to such investment or deposited funds), and
- 3043.2 Net working capital maintained for necessary and proper operation of patient care activities.
- 3044 Notwithstanding anything on parts 3043.1-3043.2, debt representing loans from partners, stockholders, or related organizations on which interest payments would be allowable as costs but for the provisions stated under allowable interest expense, is includable in computing the amount of equity capital in order that the proceeds from such loans be treated as a part of the provider's equity capital. In computing the amount of equity capital upon which a return is allowable, investment in facilities is recognized on the basis of the historical cost.
- 3045 Acquisitions. The excess of the price paid for a facility or tangible assets over the historical cost, or the cost basis as determined (whichever is appropriate), is not includable in equity capital, and loans made to finance such excess portion of the cost of such acquisitions are excluded in computing equity capital.
- 3046 Computation of return on equity capital. For purposes of computing the allowable return, the amount of equity capital is the average investment during the reporting period. Return on investment as an element of allowable costs is subject to apportionment in the same manner as other elements of allowable costs.
- 3047 Unapproved capital expenditures. With respect to any capital expenditure, a provider's investment in plant, property, and equipment related to patient care, and funds deposited by a provider which leases plant, property, or equipment related to patient care which are found to be expenditures which have not been submitted to the designated planning agency as required, or have been determined to be inconsistent with health facility planning requirements, are not included in the provider's equity capital for computing the allowance for a reasonable return on equity capital.
- 3048 Exclusion from Computation of Average Equity Capital. For the purpose of computing average equity capital, the following are examples of items not to be included in the computation:
- 3048.1 Notes and loans receivable from owners or related organizations.
- 3048.2 Goodwill.
- 3048.3 Unpaid capital surplus.

- 3048.4 Treasury Stock.
- 3048.5 Unrealized capital appreciation surplus.
- 3048.6 Cash surrender value of life insurance policies.
- 3048.7 Prepaid premiums on life insurance policies.
- 3048.8 Assets acquired in anticipation of expansion and not presently used in the provider's operation or in the maintenance of patient care activities during the rate period.
- 3048.9 Inter-company accounts.
- 3048.10 The portion of the value of any motor vehicle that is attributed to personal use.
- 3048.11 Any other assets not directly related to or necessary for the provision of patient care to publicly-aided patients.
- 3048.12 Funded Depreciation.

#### 4000 ROUTINE SERVICES - OTHER ALLOWABLE COSTS

##### 4010 Other Allowable Coats.

- 4011 Principle. All expenses which providers must incur to meet state licensing and federal certification standards are allowable.

Allowable costs shall also include all items of expense which efficient and economical providers incur for the provision of routine services. Routine services means the regular room, dietary and nursing services, minor medical and surgical supplies, and the use of equipment and facilities. Examples of expenses that allowable costs for routine services must include are:

- 4011.1 All general services including but not limited to administration of oxygen and related medications, handfeeding, incontinency care, tray service, and enemata.
- 4011.2 Items furnished routinely and relatively uniformly to all patients, such as patient gowns, water pitchers, basins and bed pans.
- 4011.3 Items stocked at nursing stations or on the floor in gross supply and distributed or used individually in small quantities; such as alcohol, applicators cotton balls, bandaids, antacids, aspirin (and other non-legend drugs ordinarily kept on hand), suppositories, and tongue depressors.
- 4011.4 Items which are used by individual patients but which are reusable and expected to be available, such as ice bags, bed rails, canes, crutches, walkers, wheelchairs, traction equipment, and other durable medical equipment.

4011.5 Laundry services including personal clothing for Medicaid patients.

4020 Bad Debts, Charity, and Courtesy Allowance.

4021 Principle. Bad debts, charity, and courtesy allowances are deductions from revenue and are not to be included in allowable costs.

4030 Cost of Educational Activities

4031 Principle. An appropriate part of the net cost of education activities is an allowable cost.

4032 Definitions

4032.1 Educational Activities. Educational activities mean formally organized or planned workshops, seminars, or programs of study usually engaged in by staff members of a facility in order to enhance the quality of resident care within the facility. These continuing education activities are distinguished from and do not include orientation, basic education programs, on-the-job training, in-service education and similar work learning programs.

4032.2 Net Cost. The net cost means the cost of educational activities less any reimbursement from grants, tuition and specific donations. These costs may include; transportation (mileage), registration fees, salary of the staff member if replaced, and meals and lodging as appropriate. Out-of-State programs will be reimbursed for registration fee only.

4032.3 Appropriate Part. Appropriate part means the net cost of the activity apportioned in accordance with the methods set forth in these principles. Expense for educational activities may be evaluated by the DHS and BMR as to appropriateness, quality and cost and may or may not be included as an allowable cost based on the findings.

4033 Orientation, on the job Training, In-Service Education & Similar Work Learning. Orientation, on-the-job training, in-service education and similar work learning programs are not within the scope of this principle but, if provided by a staff person, are recognized as normal operating costs for routine services in accordance with principles relating thereto.

4034 Basic Education. Educational training programs which a staff member must successfully complete in order to qualify for a position or job shall be considered basic education. Costs related to this education is not within the scope of reimbursement.

## 4040 Research Costs.

4041 Principle. Costs incurred for research purposes, over and above usual patient care, are not includable as allowable costs.

## 4050 Grants, Gifts, and Income from Endowments.

4051 Principle. Unrestricted grants, gifts, and income from endowments should not be deducted from operating costs in computing reimbursable costs. However, unrestricted Federal or State grants or gifts received by a facility will be used to reduce the operating costs of that facility. Grants, gifts, or endowment income designated by a donor for paying specific operating costs should be deducted from the particular operating costs or group of costs.

4051.1 BMR funds designated for cash flow assistance, start-up costs, development costs, services/materials not reimbursable through other funding sources or related purposes that must be paid back out of operating funds shall not, for the purposes of determining Medicaid reimbursement, be deducted from operating costs or group of costs.

## 4052 Definitions.

4052.1 Unrestricted grants, gifts, income from endowment. Unrestricted grants, gifts, and income from endowments are funds, cash or otherwise, given to a provider without restriction by the donor as to their use.

4052.2 Designated or restricted grants, gifts, and income from endowments. Designated or restricted grants, gifts, and income from endowments are funds, cash or otherwise, which must be used only for the specific purpose designated by the donor. This does not refer to grants, gifts, or income from endowments which have been restricted for a specific purpose by the provider.

4060 Donation of Produce or Other Supplies. Donations of produce or supplies are restricted gifts. The provider may not impute a cost for the value of such donations and include the imputed cost in allowable costs. If an imputed cost for the value of the donation has been included in the provider's costs, the amount included is deleted in determining allowable costs.

4070 Donation of Use of Space. A provider may receive a donation of the use of space owned by another organization. In such case, the provider may not impute a cost for the value of the use for the space and include the imputed cost in allowable costs. If an imputed cost for the value of the donation has been included in the provider's cost, the amount included is deleted in determining allowable costs.

## 4080 Value of Services of Nonpaid Workers.

4081 Principle. The value of services in positions customarily held by full-time employees performed on a regular, scheduled basis by individuals as nonpaid members of organizations and a provider for the performance of such services without direct remuneration from the provider to such individuals is an allowable cost subject to the limitation that such services are necessary. The amounts allowed are not to exceed those paid others for similar work. Such amounts must be identifiable in the records of the institutions as a legal obligation for operating expenses.

4082 Limitations; services of non-paid workers. The services must be performed on a regular, scheduled basis in positions customarily held by full-time employees and necessary to enable the provider to carry out the functions of normal patient care and operation of the institution. The value of the services of a type for which providers generally do not remunerate. individuals performing such services is not allowable as a reimbursable cost under the program. For example, donated services of individuals in distributing books and magazines to patients, or in serving in a provider canteen or cafeteria or in a provider gift shop, would not be reimbursable.

## 4090 Purchase Discounts and Allowances, and Refunds of Expenses.

4091 Principle. Discounts and allowances received on purchases of goods or services are reductions of the costs to which they relate. Similarly, refunds of previous expense payments are reductions of the related expense.

## 4092 Definitions

4092.1 Discounts. Discounts, in general, are reductions granted for the settlement of debts.

4092.2 Allowances. Allowances are deductions granted for damages, delay, shortage, imperfections, or other causes, excluding discounts and returns.

4092.3 Refunds. Refunds are amounts paid back or a credit allowed on account of an over-collection.

## 4093 Reduction of Costs.

All discounts, allowances, and refunds of expenses are reductions in the cost of goods or services purchased and are not income. When they are received in the same accounting period in which the purchases were made or expenses were incurred, they will reduce the purchases or expenses of that period. However, when they are received in a later accounting period, they will reduce the comparable purchases or expenses in the period in which they are received.

## 4094 Application.

4094.1 Purchase discounts have been classified as cash, trade, or quantity discounts. Cash discounts are reductions granted for the settlement of debts before they are due. Trade discounts are reductions from list prices granted to a class of customers before consideration of credit terms. Quantity discounts are reductions from list prices granted because of the size of individual or aggregate purchase transactions. Whatever the classification of purchase discounts, like treatment in reducing allowable costs is required. In the past, purchase discounts were considered as financial management income. However, modern accounting theory holds that income is not derived from a purchase, but rather for a sale or an exchange, and the purchase discounts are reductions in the cost of whatever was purchased. The true cost of the goods or services is the net amount actually paid for them. Treating purchase discounts as income would result in an overstatement of costs to the extent of the discount.

4094.2 All discounts, allowances, and rebates received from the purchases of goods or services and refunds of previous expense payments are clearly reductions in costs and must be reflected in the determination of allowable costs. This treatment is equitable and is in accord with that generally followed by other governmental programs and third-party organizations paying on the basis of costs.

## 4100 Advertising expenses.

4101 Principle. The reasonable and necessary expense of newspaper or other public media advertisements for the purpose of securing necessary employees is an allowable cost. No other advertising expenses are allowed.

## 4110 Limit on Allowable Administration and Management Expenses

4111 *(Removed, effective March 1, 1987, filing 87-77)*

## 4112 Definitions

4112.1 Dividends and Bonuses. Year end bonuses, dividends, or accruals for the express purpose of giving additional funds to the administrator, Owner, or other employees will not be recognized as allowable costs by the Department.

4112.2 Management fees. Management fees charged by a parent company are not allowable costs. However, central office bookkeeping costs may be allocated to each facility on the basis of licensed beds limited to the reasonable cost of bookkeeping services if they had been performed by the individual facility.



- 4112.3 Salaries paid to corporate officers and directors are not allowable costs unless they are paid for direct services provided to the facility as required by licensing regulations such as those provided by the Chief Executive Officer, the administrator or other staff member.
- 4112.4 Reasonable, Ordinary and Necessary Expenses Only. Only those administrative and management expenses which are reasonable, ordinary and necessary, as defined under Principle 1000, are allowable.
- 4112.5 Ceiling The administration and policy-planning ceiling shall be determined from the following table:

Intermediate Care Facility for the Mentally Retarded Ceiling

1 to 20 beds \$22,090

21 to 99 beds (\$22,909) plus (\$491) for each licensed bed in excess of 20.

Over 100 beds (\$61,534) plus (\$825) for each licensed bed in excess of 100.

In the case of an individual designated as administrator in more than one (1) facility, the Department shall combine the number of beds in these facilities and apply one hundred and twenty percent (120%) of the above schedule. The total ceiling will be prorated to the providers based on the ratio of the facility's number of beds to the combined number of beds for all facilities under the direction of the administrator.

- 4112.6 Administrative Functions. The administration function includes those duties which are necessary to the general supervision and direction of the current operations of the facility, including, but not limited to, the following:
- 4112.61 Hiring and Firing of personnel
- 4112.62 Administrative supervision of the nursing, dietary, and other personnel.
- 4112.63 Supervising the maintenance of patient records and other personnel, payroll, bookkeeping, etc. records of business.
- 4112.64 Supervising the maintenance and repairs of the facility.
- 4112.65 Procuring necessary supplies and equipment.

Administrators, assistant administrators, business managers, controllers, office managers personnel directors, and purchasing agents, typify those who are included in the administration function category. Bookkeepers, secretaries, clerks, telephone operators, etc., are included in this category.

This ceiling is not to include Directors of Nursing, Dietary Supervisor, or other department heads, whose prime duties are not of an administrative nature, that may be responsible for hiring or purchasing for their Department.

- 4112.7 Policy-Planning Function. The policy-planning function includes the policy-making, planning and decision-making activities necessary for the general and long-term management of the affairs of the facility, including, but not limited to the following:

4112.71 The financial management of the facility.

4112.72 The establishment of personnel policies.

4112.73 The planning of patient admission policies.

4112.74 The planning of expansion and financing thereof.

- 4112.8 Compensation. Compensation means total benefit provided for the administration and policy-planning services rendered to the provider. It includes:

4112.81 Fees, salaries, wages, payroll taxes, fringe benefits, contributions to deferred compensation plan, and other increments paid to or for the benefit of, those providing the administration and policy-planning services.

4112.82 The cost of services provided by the provider to, or for the benefit of, those providing the administration and policy-planning services, including, but not limited to food, lodging, and the use of the provider's vehicles.

- 4112.9 Owners. Owners include any individual or organization with 10% equity interest in the provider's operation and any members of such individual's family or his or her spouse's family. owners also include all partners and all stockholders in the provider's operation and all partners and stock holders or organizations which have an equity interest in the provider's operation.

- 4120 Administrator in Training. The reasonable salary of an administrator in training will be accepted as an allowable cost for an ICF/MR nursing facility for a period of one year provided there is a set policy, in writing, stating the training program to be followed, position to be filled and this individual obtains an administrator's license, and serve as an administrator of a facility in the State of Maine. Prior approval in writing, from the Department, must be issued in advance of the date